

**PIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CITY OF LAS CRUCES, *et al.*,

Plaintiffs/Counterclaim Defendants,

v.

Civ. No. 17-809 JCH/GBW

THE LOFTS AT ALAMEDA, LLC; AMERICAN LINEN SUPPLY OF NEW MEXICO, INC.; RAWSON LEASING LIMITED LIABILITY CO.; and CHISHOLM'S-VILLAGE PLAZA LLC,

Defendants/Counterclaim Plaintiff,

and

AMERICAN LINEN SUPPLY OF NEW MEXICO, INC.,

Crossclaimant,

v.

THE LOFTS AT ALAMEDA, LLC; RAWSON LEASING LIMITED LIABILITY CO.; and CHISHOLM'S-VILLAGE PLAZA LLC,

Crossclaim-Defendants,

and

AMERICAN LINEN SUPPLY OF NEW MEXICO, INC.,

Third-Party Plaintiff,

v.

ESTATE OF JESUS TERESO VILLANUEVA SR., deceased, BERTHA VILLANUEVA, individually and o/b/o ESTATE OF JESUS TERESO VILLANUEVA, SR., and VICTOR A. JASSO,

Third-Party Defendants.

ORDER GRANTING JOINT MOTION FOR EXTENSION OF TIME FOR BERTHA VILLANUEVA TO FILE A RESPONSIVE PLEADING

THIS MATTER comes before the Court on Defendant/Third-Party Plaintiff American Linen Supply of New Mexico, Inc.'s and Third-Party Defendant Bertha Villanueva's Joint Motion for Extension of Time for Bertha Villanueva to File a Responsive Pleading. *See doc. 496.* Having reviewed the Joint Motion and its attendant briefing (*docs. 501, 503*), noting the parties' agreement as to the relief sought, and being fully advised in the premises, the Court GRANTS the Joint Motion.

The parties agree that Third-Party Defendant Villanueva should not have to respond to American Linen's Third-Party Complaint before May 27, 2022, but disagree as to why. American Linen and Third-Party Defendant Villanueva contend that good cause exists to extend this deadline pursuant to Federal Rule Civil Procedure 6(b)(1)(A) as Third-Party Defendant Villanueva needs additional time to retain counsel. *See doc. 496 at 1-2.* Plaintiffs do not contest the existence of good cause. *See generally doc. 501.* Rather, they contend that the extension is moot since Federal Rule of Civil Procedure 12(a)(4) stays Third-Party Defendant Villanueva's response deadline for the pendency of Plaintiffs' Motion to Dismiss Counterclaims, Third-Party Claims, and to Strike Affirmative Defenses Contained in American Linen's Second Answer (*doc. 487*). *See id.* at 1-2. Assuming without deciding that Federal Rule of Civil Procedure 12(a)(4) does not stay Third-Party Defendant Villanueva's response deadline for the pendency of

Plaintiffs' Motion to Dismiss,¹ the Court finds Third-Party Defendant Villanueva's need for additional time to obtain legal representation good cause to extend this deadline.

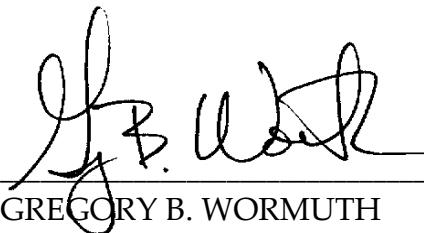
The Court also notes American Linen's request for "fees for responding to Plaintiffs' improper motions, as they were filed without a plausible basis." *Doc. 503* (citing *Dominion Video Satellite, Inc. v. Echostar Satellite, L.L.C.*, 430 F.3d 1269, 1278 (10th Cir. 2005)). In *Dominion*, the Tenth Circuit affirmed a district court for sanctioning a party's attorneys under 28 U.S.C. § 1927 for repeatedly raising arguments in judicial and arbitration proceedings that the district court had already rejected as "disingenuous, exceedingly fanciful, and based on a gross contortion of governing law." *See* 430 F.3d at 1273-74, 1279 (cleaned up). The Court does not consider Plaintiffs' opposition to the instant Joint Motion the unreasonable and vexatious multiplication of proceedings required for sanctions under 28 U.S.C. § 1927. Nor does the Court reach the issue of whether Plaintiffs' Motion to Dismiss satisfies this standard as it has not yet ruled on that Motion.

For the reasons discussed above, the Court grants American Linen's and Third-Party Defendant Villanueva's Joint Motion for Extension of Time for Bertha Villanueva to File a Responsive Pleading. IT IS HEREBY ORDERED that the deadline for Third-

¹ The parties dispute whether Plaintiffs have standing to seek dismissal of American Linen's Third-Party Claims under Federal Rule of Civil Procedure 12(b)(6) for not stating a claim for relief. *See doc. 501 at 4 n.5; doc. 503 at 3-4.* As this issue is before the presiding judge, the undersigned takes no position on the matter.

Party Defendant Villanueva to answer or otherwise respond to American Linen's Third-
Party Complaint is EXTENDED through **May 27, 2022**.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE